IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 500 OF 2002

The Commissioner of Income Tax,
Mumbai City-1, Mumbai. .. Appellant

v/s.

The Associated Cement Co.Ltd. .. Respondent

Mr.Vijay Kantharia i/by Mr.H.D.Rathod for appellant.

Mr.P.C.Tripathi for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 24th August, 2004

P.C.

Heard Mr. Vijay Kantharia, the learned counsel for the revenue.

2. In the memorandum of appeal, four substantial questions of law have been proposed. The said questions read thus-

(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the CIT(A) allowing the amount of Rs.39,68,802/- paid by the assessee as additional gratuity to monthly paid employees?

(ii) Whether on the facts and in the

circumstances of the case the Tribunal was right in law in confirming the order of the CIT(A) holding that the entire amount of Rs.97,07,511/- representing voluntary retirement compensation was an allowable deduction?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the CIT(A) in deleting the disallowance of the interest on capital borrowed for setting up a new unit?

(iv) Whether on the facts and in the circumstances of the case the Tribunal was right in law in confirming the order of CIT(A) holding that the liability of the assessee to pay interest under section 215 cannot be considered to be a contingent liability?

3. In so far as proposed question Nos.(i) and (iii) are concerned, we find that the view taken by the Tribunal is in conformity with the decision of

this court in the case of Commissioner of Income Tax v. Associated Cement Companies Ltd., 249 ITR 3.

4. In so far as proposed question No.(ii) is concerned, the view of the Tribunal is in conformity with the decision of this court in the case of Commissioner of Income Tax v. Bhor Industries Ltd., 264 ITR 180.

5. As regards the proposed question No.(iv), the Tribunal confirmed the view of the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) held that the assessee's waiver application requesting for waiver of interest liability was rejected and the interest has also been recovered by the department and therefore, it cannot be said that the liability was a contingent liability within the meaning of explanation "C" appended to section 215. We do not find any infirmity in the decision of the Tribunal upholding the finding of the Commissioner of Income Tax (Appeals).

6. No substantial question of law arises. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)